



09/815794  
Application NO. 091815794

"Petition under 37CFR 1.137"

The delay for filing of a grantable petition pursuant to 37CFR 1.137(a) was unavoidable.

I am a disabled individual and very poverty stricken. It took months before I was able to borrow money to continue my application for abandonment. I had made several calls to the examiner with no answer, until I found out that all the numbers were changed. July 30, 2003 I had back surgery and I was at home recuperating from surgery. I received an office letter mailed Nov. 26, 2003. During that time I was able to give all my attention to the office letter sending a complete response. I sent the response weeks before Feb. 26, 2004.

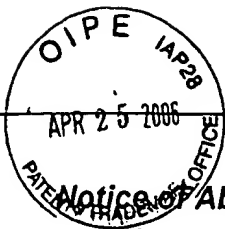
*Thomas J. Bush III*

*Extension of time  
under 37CFR 1.136(a)*

04/26/2006 HDESTA1 00000065 09815794

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1241 Odland

# Notice of Abandonment

|                 |                        |  |
|-----------------|------------------------|--|
| Application No. | Applicant(s)           |  |
| 09/815,794      | BUSH, THOMAS JEFFERSON |  |
| Examiner        | Art Unit               |  |
| Kathryn Odland  | 3743                   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 26 November 2003.
  - ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - ☒ A proposed reply was received on 3/2/04 and 4/9/04, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - ☐ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.

The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - ☐ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☒ The reason(s) below:

See Continuation Sheet

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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**DISCHARGE INSTRUCTIONS**

- ☐ No special instructions.
- ☒ You may be drowsy or lightheaded after receiving sedation or anesthesia. **DO NOT** operate a vehicle (automobile, bicycle, motorcycle or power tools), make any important decisions or drink alcoholic beverages for 24 hours. A responsible person should be with you for the next 24 hours.

**DIETARY INSTRUCTIONS**

- ☐ No special instructions.
- ☒ Start with clear liquids (water, 7-Up, tea, ginger ale), and progress to a normal diet as you feel like eating. Avoid spicy, hot or gaseous foods such as pizza or chili. If you should experience nausea or vomiting, avoid solid foods until the feeling passes. Notify your doctor if nausea or repeated episodes of vomiting persist beyond 12-24 hours.

**ACTIVITY INSTRUCTIONS**

- ☐ No special instructions.
- ☒ It is important to rest for 24 hours following general anesthesia.
- ☒ It is important that you void within 6-8 hours after surgery. If you have not voided or if you have difficulty when voiding, please call your physician.

**WOUND/DRESSING INSTRUCTIONS**

- ☒ You may notice some redness, swelling or discoloration around the area of your surgery. You may notice some drainage or bleeding. If these become excessive, please check your temperature and call your physician. Keep your dressing clean and dry. Your surgeon will tell you when to return to his office for a post-op check.

**MEDICATION INSTRUCTIONS**

- ☐ No prescription.
- ☐ Please follow your doctor's instructions about any medications you were taking before surgery. He will give you instructions about any new medications he may want you to have.
- ☒ Prescriptions received:
- Medication: Ticodol
- Dose/Time: \_\_\_\_\_
- Instruction: pain medicine

Physician Office Number 396-1300. If any of the above or other questionable symptoms occur after you have left the hospital, report to your physician or his alternate physician on call. If they cannot be reached, report immediately to the Emergency Department and they will notify your doctor.

Parents or guardians of children should observe the child continuously upon return home.

**SPECIAL INSTRUCTIONS:**

Instructions from Dr. Sartorius given to patient  
Return appointment on Thurs. August 28 at 2:30 PM

I have received and understand the above instructions.

Virginia Bush  
Patient or responsible person's signature

Carolyn Will RN  
Nurse's Signature

Date 7/30/03 Time 1715



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INDIANAPOLIS  
**neurosurgical**  
GROUP  
COMPREHENSIVE CARE  
OF THE BRAIN AND SPINE

### Microlumbar Discectomy

Adult and Pediatric

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(toll free) 888 225-5464  
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### PROCEDURE

Typically, a herniated disc occurs when a degenerative disc gives way causing the disc to herniate. This may result in pressure and inflammation of the adjacent nerves. Inflammation of the nerve is frequently the source of buttock and leg pain. A Microlumbar Discectomy is the surgical removal of a disc protrusion. You will have a vertical incision over the lower spine. The incision is usually 2-3 inches in length. During this operation, your surgeon uses a microscope to visualize the disc. A magnified view allows for a smaller incision with less damage to the surrounding tissue. The whole disc is not removed. Only the disc protrusion is removed, the remainder of the disc is left in place. The time required in surgery is typically 1 -1.5 hours. A microlumbar discectomy is usually an outpatient surgery. This means most patients can go home the same day of surgery.

### OPTIONS

You do not have to undergo surgery. Usually, a herniated disc is a painful problem; but not a dangerous condition. Your physician has offered you the option of surgery. Some alternatives to surgery include the use of anti-inflammatory medications, physical therapy, activity restriction, pain medications, and time to heal your disc protrusion. Most discs improve without surgery. If conservative treatment fails surgery is usually very effective.

### RISK OF SURGERY

The risk of surgery is not great. But, unfortunately no surgery is risk free. The risk includes failure to improve post-operatively. There is simply no guarantee that your pain will be relieved with surgery. Surgery is very effective for leg pain, but not back pain. Other risks include general anesthesia with heart and lung complication which could be fatal, bleeding which could require a blood transfusion, infection which could require IV antibiotics and reoperation; damage to the covering of the nerve causing fluid leakage requiring a drainage procedure or reoperation, damage to the nerves causing paralysis or permanent nerve damage is very rare but possible. Long term risks include, converting leg pain into disabling low back pain. At times the disc left behind is severely degenerated and becomes the source of back pain. If this occurs a fusion may be indicated. The same disc may reherniate causing recurrent leg pain and reoperation. Your specific risks will be explained in the office.

#### Surgeons

Michael R Burt MD  
Daniel F Cooper MD  
Henry Feuer MD  
Peter G Glanville MD  
Thomas M Goodman MD  
David C Hall MD  
Robert V Hall MD  
Henry G Horner MD  
Steven M James MD  
Thomas J Leipzig MD  
Michael A Morone MD PhD  
David D Payne MD  
David A Potts MD  
William J Santorius MD  
Michael S Turner MD  
Richard L Young II MD

#### Therapeutic Surgeons

Thomas M Reilly MD

#### Interventional Neurologists

Andrew J DeNardo MD  
William A Scott MD

#### Spinal Specialists

David M Ratzman MD

#### Physical Medicine & Rehabilitation

William M Koch MD  
Nancy P Lipson MD

#### Neuropsychologist

Donald C Layton PhD

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t (317) 924-8472

DUBLIN  
602 Harcourt Rd., Suite 500  
Indianapolis, IN 46260  
t (317) 876-4070

INDIANAPOLIS  
601 Jackson St., Suite 006  
Indianapolis, IN 46016  
t (765) 646-8791

WESTFIELD  
5 Westfield Rd., Suite 110B  
Shelbyville, IN 46060  
t (317) 776-7361

CLAY CITY  
50 Clearvista Dr., Suite 327  
Indianapolis, IN 46236  
t (317) 841-7325

CLAY CITY  
60 N 17th Ave., Suite 120  
Coch Grove, IN 46107  
t (317) 781-2510

CLAY CITY  
51 S Emerson Ave., Suite 380  
Indianapolis, IN 46217  
t (317) 865-0764

CLAY CITY  
18 E 16th St., Suite C 20  
Indianapolis, IN 46218  
t (317) 351-0526

#### Chiropractic Specialists

10 Naab Rd., Suite 155  
Indianapolis, IN 46260  
t (317) 802-4089

#### Orthopedic Surgeons

603 N. Meridian St.  
Indianapolis, IN 46290  
t 844-0521 Fax 846-3658

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staples or black sutures, they need removed 10-14 days after surgery. Please call the office to make an appointment.

### BATHING

You may shower anytime after surgery. The dressing over the incision is waterproof. You may still shower after the dressing is removed. Always pat the incision dry and allow the wound to air dry. Make sure you're not too light-headed or fatigued before attempting to shower. Avoid tub baths, swimming, or Jacuzzi tubs for the first 3 weeks after surgery. The white support hose may be discontinued once you're walking.

### RESTRICTIONS

Restrictions are few following this surgery. Use good common sense. Avoid heavy lifting the first couple weeks. A gallon of milk, approximately 10 lbs. is a good rule of thumb. We recommend no driving the first week. Drive only when you can use your feet well on the pedals and you're not on heavy pain medications. Increase your activities from day to day as your back pain allows. Activities that involve repetitive bending, twisting, and lifting can aggravate your back pain. These activities include laundry, sweeping, vacuuming, shoveling, or yard work. Always use good body mechanics when lifting. Smoking is not healthy for your back or healing. Do not smoke. Most people are ready to return to work 2-3 weeks after surgery. Some people recover quickly and can return sooner, others take longer.

### EXERCISE

Walking is excellent and is good for recovery. It increases blood flow to the spine and aids the healing process. We suggest you walk on a structured basis. This means slow at first and progress on a regular basis as your pain allows. Physical therapy is not indicated for most patients; your therapy is walking. Some patients recover more slowly than others and may need therapy once recovered from surgery. If indicated, this will be discussed at your return to office appointment with your doctor.

### FOLLOW-UP APPOINTMENT

If you do not have a return to office appointment, call your doctor's secretary and schedule one. The post-op visit is usually 4-6 weeks after surgery. If you have questions prior to this appointment, please do not hesitate to call the nurse or secretary. Your films will be returned to the facility they were obtained after surgery.

### WHEN TO CALL THE SURGEON

- If you develop signs or symptoms of infection
- Redness, wound drainage, worsening pain, or fevers over 100-101 degrees
- New or worsening leg weakness, pain, numbness, or tingling as compared to before surgery
- Difficulty with bowel or bladder function
- Calf or leg swelling, tenderness, and redness

If you have any question or problems, please do not hesitate to call our office

St. Vincent's Office (317) 396-1300 Toll free (888) CALL ING

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### SURGERY DATE AND TIME

If you decide to pursue surgery, we will provide you with a tentative date as soon as possible. We are unable to give you the exact time of your surgery until the working day before the operation. Your doctor's secretary will call you between 3-6 the working day before surgery to inform you of your surgery time and the necessary time of arrival to the hospital. We realize this is an inconvenience for many patients; however, confirmed surgery times are unavailable to us from the hospital prior to this time. We appreciate your patience. You need to be NPO after midnight on the night prior to surgery. This means nothing to eat or drink after midnight. This includes water, coffee, chewing gum and hard candies. You can brush your teeth the morning of surgery. If you take daily medications and have been told to continue it, take it with a small sip of water. If you take any blood thinners, for example Coumadin, Aspirin, or Ticlid, make sure your doctor is aware and you will be given specific instruction to discontinue usage. If you have a significant heart history, such as heart attack or open-heart surgery, prior clearance from your cardiologist is required. Please be sure your surgeon is aware as soon as possible. Please stop Aspirin based products 2 weeks before surgery. Please stop NSAIDs (non-anti-inflammatory drugs) such as Ibuprofen, Advil, and Motrin 1 week before surgery. Aspirin and NSAID drugs may be resumed the day after surgery. If you are currently prescribed Celebrex, Vioxx or Bextra you may continue them as instructed.

### DAY OF SURGERY

Supplied for you in your folder is a map with directions for parking and outpatient registration in the hospital or surgery center. You will need to contact the hospital for pre-operative testing. If surgery is scheduled at a surgery center, you will be given a prescription for blood work to be drawn a few days before the surgery date. Prior to surgery your family will be allowed to stay with you in the room.

Following surgery you will go to the recovery area until you're awake and alert. Next, you will return to the outpatient recovery area and your family will be allowed to visit. Most patients are discharged to home 1-2 hours after surgery. Patients with more complicated medical histories and with a more involved surgery may require hospitalization overnight.

### PAIN CONTROL

Expect significant back incisional pain the first several days after surgery. Typically, leg pain improves first. Numbness, tingling, and weakness are the last symptoms to improve and may take a few weeks to months to resolve. Numbness and tingling are from nerve damage caused by the herniated disc and usually improves or resolves as the nerve heals. Back discomfort and stiffness are common after surgery. You will be given a prescription for pain medication when you leave the hospital or surgery center. As the pain improves, you may change to Tylenol or Advil etc to help with pain. You may use an ice pack along the incision line to help with the discomfort.

### INCISION

You will leave the hospital with clear waterproof covering over the dressing. The dressing may be removed 2-3 days after surgery. Under the dressing, you will find surgical steri-strips on the edges of the wounds. Leave the strips on and let them fall off naturally. If not off by 2 weeks after surgery have a family member take them off. If your incision is dry leave it open to air. If you still have some bloody drainage keep it covered with a dressing until it stops. If you find